

ARTICLE VI
CONTRACTING PROVISIONS

6.1. If either Party determines that Contracting is necessary to fulfill that Party's obligations under an ACS PA, that Party shall contract in accordance with its respective national laws, regulations and procedures. Contracting provisions shall be documented in the ACS PA.

6.2. When one Party individually Contracts to perform a task under an ACS PA, it shall be solely responsible for its own Contracting, and the other Party shall not be subject to any liability arising from such Contracts without its prior written consent.

6.3. For all Contracting activities performed by either Party under an ACS PA, the Parties shall, upon request, be provided a copy of all statements of work prior to the development of solicitations to ensure they are consistent with the provisions of this AEGIS Framework MOA and the applicable ACS PA.

6.4. As specified in the corresponding ACS PA, the PM may make use of a Party's Contracting Agency in the event that Contracting on behalf of the other Party or both Parties is required to implement the Project. The Contracting Agency so used shall place Contracts in accordance with its respective national laws, regulations, and procedures, and shall seek such waivers and deviations its procedures permit and as are deemed necessary to implement the provisions of this AEGIS Framework MOA. The Contracting Party's Contracting Officer shall be the exclusive source for providing contractual direction and instructions to the Contractors.

6.5. Each Party's Contracting Agency shall insert into its prospective Contracts (and require its Contractors to insert in subcontracts) suitable provisions to satisfy the requirements of this AEGIS Framework MOA including, Article IX (Disclosure and Use of Project Information), Article X (Controlled Unclassified Information), Article XII (Security) and Article XIII (Third Party Sales and Transfers) of this AEGIS Framework MOA. Each Party's Contracting Agency shall negotiate to obtain the rights to use and disclose Project Information required by Article IX (Disclosure and Use of Project Information). During the Contracting process, each Party shall also advise prospective Contractors of their obligation to immediately notify their respective Party's Contracting Agency, before Contract award, if they are subject to any license or agreement that shall restrict

their government's freedom to disclose information or permit its use, and to employ their best efforts not to enter into any new agreement or arrangement that will result in restrictions.

6.6. In the event a Party's Contracting Agency is unable to secure adequate rights to use and disclose Project Information as required by Article IX (Disclosure and Use of Project Information), or is notified by Contractors or prospective Contractors of any restrictions on the disclosure and use of Project Information, that Party's Contracting Agency shall refer the matter to the PM who shall submit it to the PSC for resolution.

6.7. The PM shall promptly advise the PSC and PRs of any anticipated or actual cost growth, schedule changes, delay, or performance problems of any Contractor for which its Contracting Agency is responsible.

6.8. Upon agreement, consistent with Article II (Objectives) and the corresponding ACS PA, a Party may contract for the unique national requirements of the other Party.

ARTICLE VII
WORK SHARING

7.1. No requirement shall be imposed by either Party for work sharing or other industrial or commercial compensation in connection with this AEGIS Framework MOA or its ACS PAs that is not in accordance with this AEGIS Framework MOA and its ACS PAs.

ARTICLE VIII
PROJECT EQUIPMENT

8.1. Each Party may provide Project Equipment identified as being necessary for executing an ACS PA to the other Party. Project Equipment shall remain the property of the providing Party. A list of all Project Equipment provided by one Party to another Party shall be developed and maintained by the PM, approved by the PSC as required by the ACS PA, in accordance with the corresponding ACS PA prior to such transfers.

8.2. The receiving Party shall maintain any such Project Equipment in good order, repair, and operable condition. Unless the providing Party has authorized the Project Equipment to be expended or otherwise consumed without reimbursement to the providing Party, the receiving Party shall return the Project Equipment to the providing Party in as good condition as received, normal wear and tear excepted, or return the Project Equipment and pay the cost to restore it. If the Project Equipment is damaged beyond economical repair, the receiving Party shall return the Project Equipment to the providing Party (unless otherwise specified in writing by the providing Party) and pay its replacement value as computed pursuant to the providing Party's national laws and regulations. If the Project Equipment is lost while in the custody of the receiving Party, the receiving Party shall issue a certificate of loss to the providing Party and pay the replacement value as computed pursuant to the providing Party's national laws and regulations. If known at the time of entry into force, the replacement value of the Project Equipment shall be specified in the corresponding ACS PA.

8.3. The providing Party shall deliver Project Equipment to the receiving Party at a mutually agreed location. Possession of the Project Equipment shall pass from the providing Party to the receiving Party at the time of receipt of the Project Equipment. Any further transportation is the responsibility of the receiving Party.

8.4. All Project Equipment that is transferred shall be used by the receiving Party only for the purposes of carrying out ACS PAs, unless otherwise consented to in writing by the providing Party. In addition, in accordance with Article XIII (Third Party Sales and Transfers) Project Equipment shall not be re-transferred to a Third Party without the prior written consent of the providing Party.

8.5. Project Equipment transferred to one Party under an ACS PA shall be returned to the providing Party prior to the termination or expiration of the ACS PA.

8.6. Any Project Equipment that is jointly acquired on behalf of both Parties for use under an ACS PA shall be disposed of during the ACS PA Project or when the ACS PA Project ceases.

8.7. Disposal of jointly acquired equipment may include a transfer of the interest of one Party in such Project Equipment to the other Party, or the sale of such equipment to a Third Party in accordance with Article XIII (Third Party Sales and Transfers) of this AEGIS Framework MOA or a corresponding ACS PA. The Parties shall share the consideration from jointly acquired Project Equipment transferred or sold to a Third Party in the same ratio as costs are shared under the applicable ACS PA.

ARTICLE IX
DISCLOSURE AND USE OF PROJECT INFORMATION

9.1. General

Both Parties recognize that successful collaboration may depend on full and prompt exchange of information necessary for carrying out an ACS PA under this AEGIS Framework MOA. In such case, the Parties intend to acquire sufficient Project Information and rights to use such information to perform the effort under the ACS PA. The nature and amount of Project Information to be acquired and disclosed to the Parties shall be consistent with the objectives stated in Article II (Objectives), Article III (Scope of Work), Article VI (Contracting Provisions), the specific requirements set forth in the corresponding ACS PA, and such acquisition and disclosure will be subject to the Parties' national laws, policies, and procedures. While this Article sets forth Project Information use and disclosure rights generally applicable to ACS PAs, an ACS PA may provide for lesser use and disclosure rights for that ACS PA's Project Foreground Information and Project Background Information.

9.2. Government Project Foreground Information

9.2.1. Disclosure: Project Foreground Information generated by a Party's military or civilian employees shall be disclosed without charge to both Parties.

9.2.2. Use: Each Party may use all Government Project Foreground Information without charge for Defense Purposes. The Party generating Government Project Foreground Information shall also retain its rights of use thereto. Any sale or other transfer to a Third Party, shall be subject to the provisions of Article XIII (Third Party Sales and Transfers) of this AEGIS Framework MOA.

9.3. Government Project Background Information

9.3.1. Disclosure: Each Party, upon request, shall disclose to the other Party any relevant Government Project Background Information generated by its military or civilian employees, provided that:

9.3.1.1. such Project Background Information is necessary to or useful in the Project, with the Party in possession of the information determining whether it is "necessary to" or "useful in" the Project;

9.3.1.2. such Project Background Information may be made available without incurring liability to holders of proprietary rights; and

9.3.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing Party.

9.3.2. Use: Government Project Background Information disclosed by one Party to the other may be used without charge by the other Party for Project Purposes only; however, the furnishing Party shall retain all its rights with respect to such Project Background Information.

9.4. Contractor Project Foreground Information

9.4.1. Disclosure: Project Foreground Information generated and delivered by Contractors, shall be disclosed without charge to both Parties.

9.4.2. Use: Each Party may use without charge for its Defense Purposes all Contractor Project Foreground Information generated and delivered by Contractors of the other Party. The Party whose Contractors generate and deliver Contractor Project Foreground Information shall also retain rights of use thereto in accordance with the applicable Contract(s). Any sale or other transfer to a Third Party of Contractor Project Foreground Information, shall be subject to the provisions of Article XIII (Third Party Sales and Transfers) of this AEGIS Framework MOA.

9.5. Contractor Project Background Information

9.5.1. Disclosure: Any Project Background Information, (including information subject to proprietary rights) generated and delivered by Contractors shall be made available to the other Party provided the following conditions are met:

9.5.1.1. such Project Background Information is necessary to or useful in the Project, with the Party in possession of the information determining whether it is "necessary to" or "useful in" the Project;

9.5.1.2. such Project Background Information may be made available without incurring liability to holders of proprietary rights; and

9.5.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing Party.

9.5.2. Use: Project Background Information furnished by one Party's Contractors and disclosed to the other Party may be used without charge by the other Party for Project Purposes only, and may be subject to further restrictions by holders of proprietary rights; however, the furnishing Party shall retain all its rights with respect to such Project Background Information.

9.6. Alternative Uses of Project Information

9.6.1. Any Project Background Information provided by one Party shall be used by the other Party only for the purposes of a particular ACS PA, unless otherwise consented to in writing by the providing Party.

9.6.2. The prior written consent of the U.S. DoD shall be required for the use of Project Foreground Information by the Spanish MOD for purposes other than those provided for in a particular ACS PA.

9.7. Proprietary Project Information

9.7.1. All Project Information subject to proprietary interests shall be identified and marked, and it shall be handled as Controlled Unclassified Information.

9.7.2. The provisions of the NATO Agreement on the Communication of Technical Information for Defence Purposes, done at Brussels on 19 October

1970, and the Implementing Procedures for the NATO Agreement on the Communication of Technical Information for Defence Purposes, approved by the North Atlantic Council on 1 January 1971, shall apply to proprietary Project Information related to this AEGIS Framework MOA and ACS PAs under it.

9.8. Patents

- 9.8.1. Where a Party owns title to a Project Invention, or has the right to receive title to a Project Invention, that Party shall consult with the other Party regarding the filing of a Patent application for such Project Invention. The Party that has or receives title to such Project Invention shall, in other countries, file, cause to be filed, or provide the other Party with the opportunity to file on behalf of the Party holding title, or its Contractors, as appropriate, Patent applications covering that Project Invention. If a Party having filed or caused to be filed a Patent application decides to stop prosecution of the application, that Party shall notify the other Party of that decision and permit the other Party to continue the prosecution.
- 9.8.2. The other Party shall be furnished with copies of Patent applications filed and Patents granted with regard to Project Inventions.
- 9.8.3. The other Party shall acquire a non-exclusive, irrevocable, royalty-free license to practice or have practiced, by or on behalf of the Party, throughout the world for Defense Purposes, any Project Invention.
- 9.8.4. Patent applications to be filed under a particular ACS PA that contain Classified Information, shall be protected and safeguarded in accordance with the requirements contained in the NATO Agreement for the Mutual Safeguarding of Secrecy of Inventions Relating to Defense and for Which Applications for Patents Have Been Made, done in Paris on 21 September 1960, and its Implementing Procedures.

9.8.5. Each Party shall notify the other Party of any Patent infringement claims made in its territory arising in the course of work performed under the Project. Insofar as possible, the other Party shall provide information available to it that may assist in defending the claim. Each Party shall be responsible for handling all Patent infringement claims made in its territory, and shall consult with the other Party during the handling, and prior to any settlement, of such claims. The Parties shall share the costs of resolving Patent infringement claims in the same percentage as they share the full Financial Costs and Non-financial Costs of the ACS PA, or as set forth in the ACS PA. The Parties shall, in accordance with their national laws and practices, give their authorization and consent for all use and manufacture in the course of work performed under the Project of any invention covered by a Patent issued by their respective countries.

ARTICLE X
CONTROLLED UNCLASSIFIED INFORMATION

10.1. Except as otherwise provided in this AEGIS Framework MOA or in an ACS PA or as authorized in writing by the originating Party, Controlled Unclassified Information provided or generated pursuant to this AEGIS Framework MOA and ACS PAs under it shall be controlled as follows:

- 10.1.1. Such information shall be used only for the purposes authorized for use of Project Information as specified in Article IX (Disclosure and Use of Project Information).
- 10.1.2. Access to such information shall be limited to personnel whose access is necessary for the permitted use under subparagraph 10.1.1., and shall be subject to the provisions of Article XIII (Third Party Sales and Transfers).
- 10.1.3. Each Party shall take all lawful steps, which may include national classification, available to it to keep such information free from further disclosure (including requests under any legislative provisions), except as provided in subparagraph 10.1.2., unless the originating Party consents to such disclosure. In the event of unauthorized disclosure, or if it becomes probable that the information may have to be further disclosed under any legislative provision, immediate notification shall be given to the originating Party.

10.2. To assist in providing the appropriate controls, the originating Party shall ensure that Controlled Unclassified Information is appropriately marked. The Parties shall decide, in advance and in writing, on the markings to be placed on the Controlled Unclassified Information. The appropriate markings shall be defined in ACS PAs' corresponding Project Security Instructions.

10.3. Controlled Unclassified Information provided or generated pursuant to this AEGIS Framework MOA or ACS PAs under it shall be handled in a manner that ensures control as provided for in paragraph 10.1.

10.4. Prior to authorizing the release of Controlled Unclassified Information to Contractors, the Parties shall ensure the Contractors are legally bound to control such information in accordance with the provisions of this Article.

ARTICLE XI
VISITS TO ESTABLISHMENTS

11.1. Each Party shall permit visits to its government establishments, agencies and laboratories, and Contractor industrial facilities by employees of the other Party or by employees of the other Party's Contractor(s), provided that the visit is authorized by both Parties and the employees have any necessary and appropriate security clearances and a need-to-know.

11.2. All visiting personnel shall be required to comply with security regulations of the hosting Party, and visits shall be conducted in accordance with the MOA Project Security Instruction. Any information disclosed or made available to visitors shall be treated as if supplied to the Party sponsoring the visiting personnel, and shall be subject to the provisions of this AEGIS Framework MOA and corresponding ACS PAs.

11.3. Requests for visits by personnel of one Party to a facility of the other Party shall be coordinated through official channels, and shall conform with the established visit procedures of the hosting country. Requests for visits shall bear the name of the corresponding ACS PA.

11.4. Lists of personnel of each Party required to visit, on a continuing basis, facilities of the other Party shall be submitted through official channels in accordance with recurring international visit procedures.